

MILWAUKEE REGIONAL CABLE COMMISSION

Bob Chernow
Chair

Ray Glowacki
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Jim Payne
Treasurer

Harry Kollman
Secretary

Serving the
communities
of:

*Bayside
Brookfield
Brown Deer
Cudahy
Fox Point
Franklin
Glendale
Greendale
Hales Corners
Mequon
River Hills
Shorewood
South Milwaukee
Whitefish Bay*

REF: MM Docket #97-182

Office of the Secretary
Federal Communication Commission
1919 M Street NW Rm 222
Washington, DC 20554

Delivered by hand.

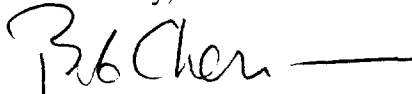
The Milwaukee Regional Cable Commission is made up of fourteen communities surrounding the City of Milwaukee: Bayside, Fox Point, Mequon, Brookfield, Greendale, Franklin, Glendale, Brown Deer, South Milwaukee, Hales Corners, Cudahy, River Hills, Whitefish Bay and Shorewood. Over 60 000 of our citizens subscribe to Warner Cable.

We speak for our communities in matters of federal and state matters of communications. Because of this, we wish to comment on the FCC's MM Docket #97-182, in the matter of preemption of state and local zoning and land use restrictions on the siting, placement and construction of broadcast station transmission facilities.

Our comments are strongly negative towards the FCC's wish to preempt our local zoning and land use restrictions.

Thank you.

Sincerely,



Bob Chernow, Chair
8230 N Pelican Lane
River Hills, Wisconsin 53217

October 29, 1997

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In the matter of Preemption of State & Local Zoning &
Land Use Restrictions on the Siting, Placement & Construction
of Broadcast Station Transmission Facilities

FCC 97-296

MM Docket # 97-182

The communities of the MRCC object to your proposed rule making which would preempt local zoning and land use restrictions. We object for the following reasons:

First, there are practical reasons why local governments regulate zoning. We need to co-ordinate all utilities for public safety, and we need to consider the character of our communities and the wishes of our citizens. Your proposed rule violates the principles of Federalism which recognizes zoning as being an unique local concern.

Second, there is an additional economic burden placed upon local communities when businesses open up our roads and other public facilities which then need to be repaired. When regulated public utilities were monopolies which offered universal service, this extra cost could be justified. In today's environment, many businesses are cherry picking their customers and have many services which are not regulated. In short, these are competitive businesses who offer no needed universal service. Why should the FCC favor one business over another when the cost to community is its loss of governance?

Third, you state that "it is incumbent upon the Commission not to 'unduly interfere with the legitimate affairs of local governments when they do not frustrate federal objectives.'" It could be debated that the FCC does not have the legal right to preempt our zoning ordinances, but it is hypocritical of the Commission to pass rules when it benefits from the sale of Digital Television Service (DTV) licenses and when the FCC has adopted its own artificial and accelerated roll-out schedule for DTV. Importantly, the FCC is relying on anecdotal evidence to press its case and would throw out the processes we use locally to inform our citizens and to give them and us the opportunity to study variances to our local zoning and land use. Is there a military pressing the immediate use of DTV or is it a business and entertainment requirement that go through the "inconveniences " of local democracy.

Four, is the FCC using a meat axe to kill a fly. Your time limits are unrealistic and bear no relation to the procedural requirements of state and local law, the requirements of due process or zoning law. You disregard property values, historic districts, aesthetics and safety rules.

There is no pressing public need to have the FCC co-opt local zoning and land use. In addition, there is no "right" to do so under federal law. But if there was a pressing public need and so called FCC "right", the FCC has a serious conflict of interest in that sales are generated from licensing fees. Therefore, a neutral system should be set up with the burden of proof required by the DTV, not by the municipality, and a time horizon more closely akin to how local governments function.

Lastly, the FCC has shown itself not to be friendly to the interests of local government or the citizens that we serve. Complaints that were issued to the FCC against Warner Cable, for instance, were terminated and became a "social contract" whereby Warner Cable could raise rate annually to pay for their new fiber optics system with little or no benefit accruing to their subscribers.

Robert Chernow
Chair

MRCC
8230 N Pelican Lane
River Hills, Wisconsin 53217

cc Senator Russ Feingold
Senator Herb Kohl
Congressman Tom Barrett
Congressman Jerry Kleczka
Congressman Jim Sensenbrenner
Ron Kuisis (City of Milwaukee)
Barry Orton (University of Wisconsin)